

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1772 Session of
2007

INTRODUCED BY D. O'BRIEN, ADOLPH, BELFANTI, BISHOP, BRENNAN,
COHEN, DeLUCA, HARKINS, HERSHEY, HORNAMAN, JOSEPHS,
W. KELLER, KENNEY, KORTZ, KULA, MAHONEY, MELIO, PETRONE,
PHILLIPS, RAPP, REICHLEY, ROEBUCK, SHAPIRO, K. SMITH,
TANGRETTI, THOMAS, TRUE, VEREB, WALKO, WATSON AND YOUNGBLOOD,
JULY 25, 2007

REFERRED TO COMMITTEE ON EDUCATION, JULY 25, 2007

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," providing for special education
6 services for nonpublic school students.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, is amended by adding a
11 section to read:

12 Section 922.2-A. Special Education Services for Nonpublic
13 School Students.--(a) Legislative Finding; Declaration of
14 Policy. The welfare of this Commonwealth requires that school
15 age children be assured ample opportunity to develop their
16 intellectual capacities to the fullest. Children attending
17 nonpublic schools have not been furnished special education
18 services on an equal basis with public school children. It is

1 the intent of the General Assembly to ensure that nonpublic
2 school children be afforded an equitable opportunity to receive
3 special education services.

4 (b) Definitions. The following terms, whenever used or
5 referred to in this section, shall have the following meanings,
6 except in those circumstances where the context clearly
7 indicates otherwise:

8 "Nonpublic school" means a nonprofit school, other than a
9 public school or an approved private school within this
10 Commonwealth wherein a resident of this Commonwealth may legally
11 fulfill the compulsory school attendance requirements of this
12 act and which meets the applicable requirements of Title VI of
13 the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

14 "Special education services" means secular, neutral,
15 nonideological educational services and related services for
16 children with exceptionalities, as that term is defined in
17 section 1371.

18 (c) Program of Special Education Services. (1) To the
19 extent allowed by the level of funds appropriated by the General
20 Assembly to implement the provisions of this section, children
21 with exceptionalities attending nonpublic schools shall be
22 furnished a program of special education services which are
23 required by law to be offered to public school students in this
24 Commonwealth and which are appropriate to the needs of those
25 children. The program of special education services shall be
26 provided by the intermediate unit in which the nonpublic school
27 is located, in accordance with standards of the Secretary of
28 Education.

29 (2) Such services shall be provided directly to the
30 nonpublic school students by the intermediate unit in the

schools which the students attend, in mobile instructional units located on the grounds of such schools or in any alternative setting mutually agreed upon by the school and the intermediate unit, to the extent permitted by the Constitution of the United States and the Constitution of Pennsylvania.

(3) Such special education services may be provided directly by the intermediate units or through agreements between the intermediate units and school districts or qualified private service providers, but may not be provided by nonpublic school employees.

(4) School districts may also, at their option, provide such services to resident students attending nonpublic schools or place children in need of such services in nonpublic schools at school district expense.

(d) School District Responsibilities. Nothing in this section shall relieve any school district of any responsibilities, under Federal or State law, to identify, locate or evaluate any nonpublic school student who is in need of special education services. School districts may fulfill such responsibilities directly or by agreement with an intermediate unit.

(e) Intermediate Unit Responsibilities. (1) Intermediate units shall be responsible for designing and implementing appropriate individualized education programs for children with exceptionalities who attend nonpublic schools. The Secretary of Education shall prescribe standards establishing procedures for the development, review and revision of appropriate special education programs for such children, which standards shall include required timely and meaningful consultation with a representative of the nonpublic school which the child to be

1 served attends regarding the child's secular educational needs.

2 (2) The required consultation shall occur before the
3 intermediate unit makes any decision that affects the
4 opportunities of nonpublic school children to participate in the
5 services provided under this section, and shall include, at a
6 minimum: which children shall receive services; what services
7 will be provided; how and where the services will be provided;
8 and how the services provided will be evaluated.

9 (f) Appropriations. (1) From the Federal funds received by
10 the Commonwealth for special education services, the Secretary
11 of Education shall allocate to intermediate units a proportion
12 equal to the percentage of children with exceptionalities who
13 attend nonpublic schools in this Commonwealth. Said funds shall
14 be combined with State funds appropriated by the Commonwealth
15 and utilized by the intermediate units for purposes of providing
16 special education services under this section.

17 (2) Appropriations of Federal and State funds made by the
18 Commonwealth under this section shall be allocated by the
19 Secretary of Education to each intermediate unit based upon the
20 number of nonpublic school children within that intermediate
21 unit who are in need of special education services.

22 (g) Limitations on Expenditure. The intermediate unit shall
23 not use more than six per centum (6%) of the funds it receives
24 under this section for administrative expenses. The Department
25 of Education shall not use more than one per centum (1%) of the
26 funds it allocates under this section for administrative
27 expenses. If all funds allocated by the intermediate units to
28 administration are not expended for those purposes, such funds
29 may be used for program costs under this section.

30 (h) Interest. There shall be no adjustment in the allocation

1 as provided in subsection (f) because of interest earned on the
2 allocations by the intermediate units. Interest so earned shall
3 be used for the purpose of this section but shall not be subject
4 to the limitations of subsection (g).

5 (i) Budgets. Annually, each intermediate unit shall submit
6 to the Secretary of Education a preliminary budget for services
7 to be provided under this section on or before January 31 and a
8 final budget on or before June 15 for the succeeding year, and
9 shall file a final financial report on or before October 31 for
10 the preceding year.

11 (j) Limitations on Regulations. (1) Nothing in this section
12 shall be construed to authorize any additional regulations,
13 requirements or limitations upon nonpublic schools which are not
14 otherwise authorized by law.

15 (2) No nonpublic school may be compelled to accept or to
16 enroll children with exceptionalities if the school:

17 (i) is not structured or equipped to meet the special needs
18 of the student;

19 (ii) does not offer educational programs appropriate to the
20 special needs of the student; or

21 (iii) does not offer a particular program requested.

22 (3) The providing of special education services to children
23 under this section shall not be considered to be appropriations
24 or financial assistance to the nonpublic school which the child
25 attends.

26 Section 2. This act shall take effect in 60 days.